IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.BALAKRISHNAN NAIR
&
THE HONOURABLE MR. JUSTICE K.P.BALACHANDRAN

TUESDAY, THE 4TH DECEMBER 2007 / 13TH AGRAHAYANA 1929

WP(C).No. 33721 of 2007(M)

PETITIONERS:
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1. BENNY SEBASTIAN, AGED 50 YEARS,
S/O SEBASTIAN LUKOSE, ULLATTIL,
ALAPPAT NAGAR, NO.37,
MUNNUMPURAM, KAKKANAD, KOCHI-30.

2. EDITH LIGORIA BENNY @ SUSHAMA BENNY,
AGED 46 YEARS, W/O BENNY SEBASTIAN,
ULLATTIL, ALAPPAT NAGAR, NO.37,
KUNNUMPURAM, KAKKANAD,
KOCHI-30.

BY ADV. SMT.K.GIRIJA

RESPONDENTS:
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1. THE COMMISSIONER OF POLICE,
ERNAKULAM.

2. THE CIRCLE INSPECTOR OF POLICE,
KALAMASSERY.

3. SUB INSPECTOR OF POLICE,
KAKKANAD.

4. PAUL RAPPAI,
'DESIGNER ZONE', FORTH FLOOR,
KHADEEJA BUILDING,
OPPOSITE TO NORTH RAILWAY STATION,
ERNAKULAM NORTH-18.

BY ADV. SRI.JOSE JOSEPH (MANNAR)
GOVT. PLEADER SRI.P.A.SALIM

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 04/12/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

APPENDIX(WPC 33721/2007)

PETITIONERS' EXTS.

EXT.P1 - TRUE COPY OF THE BILL DATED 22.8.2007 EVIDENCING PURCHASE OF MATERIALS WORTH RS.1,26,000/- IN THE NAME OF THE 2ND PETITIONER FROM MILAN TIMBER MART, MUMBAI.

EXT.P2 - TRUE COPY OF RELEVANT PAGES OF THE PASS BOOK OF A/C NO.9440 MAINTAINED IN THE JOINT NAME OF THE PETITIONERS WITH THE FEDERAL BANK, THRIKKAKARA.

EXT.P3 - TRUE COPY OF THE COMPLAINT DATED 20.10.2007 BEFORE THE 2ND RESPONDENT.

EXT.P4 - TRUE COPY OF THE REPRESENTATION DATED 12.11.2007 SUBMITTED BY THE PETITIONERS BEFORE THE 2ND RESPONDENT.

RESPONDENTS' EXTS.

EXT.R4(a) – PHOTOSTAT COPY OF THE QUOTATION DATED 3.9.2007.

/TRUE COPY/

K.BALAKRISHNAN NAIR &

K.P.BALACHANDRAN, JJ.

W.P.(C) NO. 33721 OF 2007-M

Dated 4th December, 2007.

JUDGMENT

Balakrishnan Nair, J.

The petitioners are husband and wife. They have constructed a residential building. The 4th respondent was entrusted with the work of doing interior decoration for the said building. The entire materials for the work were to be purchased by the petitioners and the actual execution of the work only was entrusted to the 4th respondent. According to the petitioners, the entire amount payable to the said respondent has already been paid. Since the 1st petitioner is working abroad, the 4th respondent is pressurising the 2nd petitioner to make payments over and above the amount that is due to him. When the 2nd petitioner refused to oblige, he is employing illegal methods to get the payment. He is coming to their residence, threatening them and harassing them. He is employing musclemen also for the said purpose. Therefore, the petitioners preferred Exts.P3 and P4 representations before the police. Since the police did not

positively respond, this writ petition is filed, seeking protection for their life and property.

2. The 4th respondent would submit that as per the quotation submitted by him on 3.9.2007, the work was awarded to him. The total cost of the work, according to the said quotation was Rs.8,50,000/-. Though he did substantial portion of the work, payments are not made, as contemplated under Ext.R4(a). Therefore, he demanded payment of the amount due to him. Other allegations of threat and violence are denied by him. The allegation of employing musclemen to threaten the petitioners is also emphatically denied by the 4th respondent. The learned counsel for the petitioner disputes the claim of the 4th respondent based on the quotation submitted by him dated 3.9.2007.

3. Heard the learned counsel on both sides. The learned counsel for the 4th respondent submitted that the said respondent will take recourse to the forums provided under law to redress his grievances and recover the amount stated to be due to him from the petitioners. He will not indulge in any high-handed action, it is submitted. This submission is recorded. If there is any threat or violence from the part of the 4th respondent, the petitioners may inform the 2nd respondent. In that event, the 2nd respondent will look into the same and if the allegations are found to be genuine, take

action in accordance with law.

The Writ Petition is disposed of as above.

K.BALAKRISHNAN NAIR, JUDGE.

K.P.BALACHANDRAN, JUDGE.

Nm/